

# EXTENSIONS OF REMARKS

## THE RIGHT TO KEEP AND BEAR ARMS—AN AMERICAN LEGACY

**HON. PHILIP M. CRANE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 18, 1995*

Mr. CRANE. Mr. Speaker, continuing a tradition begun in the 98th Congress, I have once again reintroduced legislation which reaffirms the commitment of this body to protect the second amendment to the Constitution.

The Founding Fathers recognized the right of men to defend themselves, and guaranteed Americans that this right would be preserved by the second amendment. At the time of our Nation's founding, guaranteeing this right was an idea foreign to the monarchies that ruled most of the world. James Madison noted this when he wrote that the right to keep and bear arms was an advantage "which Americans possess over the people of almost every other nation."

During the 103d Congress, we witnessed an assault on the right of law-abiding Americans to own firearms. Both the Brady bill and the ban on certain semiautomatic guns were ill-conceived legislative attempts at crime control. Actually, both had the effect of usurping the rights of Americans while doing little to help crime in America.

Gun control laws have never worked to reduce crime in America. Washington, DC has some of the most restrictive gun control laws in America, yet leads the Nation in per capita murders. My own State of Illinois has some very tough standards before its citizens can legally possess firearms, yet since those laws went into effect, the crime and murder rates have dramatically increased.

I find it necessary, therefore, to remind my colleagues that our Nation's crime problems cannot be solved by infringing upon the rights of peaceful Americans to own arms. Furthermore, because of the recent congressional assaults on this right, we must demonstrate to Americans that we are resolved to protecting this right by supporting my resolution to reaffirm the second amendment and the right of individuals to keep and bear arms. I include, for the RECORD, the language of the resolution and commend it to the attention of my colleagues with the hope that they will consider becoming a cosponsor.

H. CON. RES. 5

Expressing the sense of the Congress with respect to the right of all Americans to keep and bear arms in defense of life or liberty and in the pursuit of all other legitimate endeavors.

Whereas the second amendment to the Constitution of the United States conveys an inalienable right to all American citizens, such right occupying the same preferred position as all other constitutional rights;

Whereas unconscionable abridgements of the second amendment have been undertaken over the years by State and local governmental bodies, and have been allowed by the courts to stand uncorrected; and

Whereas the Framers of the second amendment to the Constitution and those who ratified the second amendment intended that the individual retain the right to keep and bear arms in order to protect life, liberty, and property and to protect our Nation from those who would attempt to destroy our freedom: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Constitution provides that all individual citizens have the right to keep and bear arms, which right supersedes the power and authority of any government.*

## CONGRATULATIONS TO THORNDALE HIGH SCHOOL STATE FOOTBALL CHAMPIONS

**HON. CHET EDWARDS**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 18, 1995*

Mr. EDWARDS. Mr. Speaker, today, I would like to recognize a group of individuals, a team, whose strive for sportsmanship and fairness in scholastic sports have made them champions, not only in their game, but in their daily lives as well.

I extend my sincere congratulations to the Thorndale High School Bulldogs of Thorndale, TX, who captured the 1994 Class 1A State Championship on December 17, 1994 before an overflow crowd of more than 12,000 at Wildcat Stadium in Temple, TX. Defeating the Crawford High School Pirates, another school from my congressional district, the Bulldogs took their first State championship since 1989.

This achievement could not have been possible if not for the support of the student body and parents of Thorndale. This victory also, if not more so, comes through the dedication of coach Don Cowan and his staff. They, too, must be congratulated for the role they took in shaping the lives of these winners, winners who by accepting this victory also accept a responsibility to be victorious throughout their lives and give back to their communities.

I urge my colleagues to join me today in recognizing and honoring the players, coaches, students, and parents of Thorndale, TX.

## INTRODUCTION OF PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 18, 1995*

Mr. MARKEY. Mr. Speaker, today I am introducing legislation which would reform securities fraud litigation in order to curb frivolous lawsuits while protecting and strengthening the ability of defrauded investors to sue.

I believe that Americans can be justifiably proud of the substantial benefits we enjoy from the fact that we have the best securities

markets in the world. Our stock and bond markets have expanded tremendously over the last several years. This has helped to finance the birth and growth of promising new industries such as telecommunications, computer software, and other high technology companies that create better jobs and promote economic growth.

One of the most critical factors supporting the successful growth of America's market-based capital formation system is the high level of trust and confidence investors have in the fundamental integrity and fairness of our securities markets. Our Federal securities laws help assure stock or bond prices efficiently reflect the values of the companies that have issued them. This is achieved through a system of full disclosure of all material information about public companies, which empowers Americans so that they can make informed investment decisions about which company's stocks or bonds they want to purchase. But disclosure cannot effectively serve the needs of the investing public unless backed up by strong enforcement mechanisms that assure that those who lie, cheat, and steal will be caught and punished.

Over the last decade, we have witnessed horrendous financial frauds involving hundreds of billions of dollars—including Lincoln Savings & Loan, Drexel, Centrust, Phar-Mor, Miniscribe, and ZZZ Best. The rogues gallery of financial miscreants and malfeasors that were responsible for these crimes were brought to justice through the combined efforts of Federal regulators and individual investors who filed private lawsuits. Such private lawsuits perform functions that Federal bureaucrats cannot accomplish. They provide compensation to investors who have been defrauded and they supplement the SEC's enforcement activities by helping to deter companies that may be contemplating actions that would mislead their investors.

The securities litigation provisions of the GOP Contract With America would give white collar criminals, stock swindlers, and financial con artists a license to rip-off the investing public. Make no mistake about it: H.R. 10, the so-called "Common Sense Legal Reform Act," is special interest legislation at its worst. While it purports to take aim against abuses by attorneys, in reality the principal beneficiaries of this legislation will be huge corporations, wealthy Wall Street investment bankers, big six accounting firms, and well-heeled corporate lawyers. Who will lose out? The defrauded investors, pension funds, and State and local governments who are victimized by financial fraud, and every business in America which can't get capital to build because a competitor is cheating the system.

Individual investors will face nearly insurmountable new procedural and substantive obstacles in bringing their cases to court. Proposals such as adoption of the English rule on fee shifting, establishment of heightened intent requirements that would eliminate recklessness as a cause of action in securities fraud

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

cases, enhanced pleading requirements, elimination of cases based on a fraud on the market, and other proposed changes would effectively end securities class action litigation in this country. This would deprive potentially defrauded investors from being able to seek recovery of their lost savings.

Unlike the Republican bill, the legislation I am introducing today would target the real problems and abuses that can occur in the existing litigation process without impairing the ability of defrauded investors to sue wealthy corporations, and the accountants or attorneys who knowingly or recklessly assisted them in perpetrating financial frauds. My bill contains reforms which would:

Ban or restrict a range of abusive practices engaged in by plaintiffs' or defendants' attorneys;

Streamline the securities litigation process by providing for an early evaluation process aimed at weeding out frivolous cases;

Require the SEC to issue new rules to strengthen the safe harbor provisions provided for companies to issue forward-looking statements;

Limit the potential financial risk faced by defendants in securities fraud litigation cases by providing defendants with a right to obtain contribution from their codefendants based on proportionate responsibility;

Assure that the interests of plaintiffs' attorneys are more closely aligned with the interests of their clients by mandating at fees be calculated on the percentage of lost funds recovered, rather than on how many billable hours the lawyers have generated;

Overtake the Supreme Court's Central Bank of Denver decision by fully restoring liability to those who knowingly or recklessly aid or abet securities fraud;

Overtake the Supreme Court's *Lampf* decision by establishing a statute of limitations for securities fraud cases of 5 years after occurrence or 3 years after the violation was actually discovered;

Strengthen the role of auditors in detecting and reporting evidence of financial fraud; and finally; and

Mandate an SEC study on the effectiveness of private enforcement of compliance with the Federal securities laws.

This package of reforms represents a balanced alternative to the special interest smorgasbord set forth in H.R. 10. Over the next days and weeks, I intend to seek cosponsors to my bill and I fully expect to offer this legislation, or amendments derived from it, to H.R. 10 when it is marked up in our subcommittee. While the specifics of this bill may undergo further refinement during the course of discussions with my House colleagues, and some additional or related provisions may be introduced later, the fundamental principles of fairness to investors that this bill embodies will not be altered.

In conclusion, I am proud, as a Democrat, to have supported the evolution of a market system that provides investors with the right to obtain full disclosure of critical investment information. I believe that investors who are defrauded by false or misleading financial statements, or inflated puffery about a corporation's earnings, products or prospects, or the value of its securities, should have a right to sue for recovery. The bill I am introducing today would preserve that right, while eliminating certain abusive or problematic practices that unduly

burden the overwhelming majority of companies who are seeking in good faith to play by the rules and comply with the law.

#### CONGRATULATIONS TO WALTER F. "BUS" BERGMAN

#### HON. SCOTT MCINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 18, 1995*

Mr. MCINNIS. Mr. Speaker, I rise today to congratulate Walter Bergman on being named to the Colorado Sports Hall of Fame. I can think of nobody more deserving of such an honor as Walter Bergman. I would like to share with my colleagues Mr. Bergman's numerous accomplishments which have enabled him to join that elite group of athletes in the Colorado Sports Hall of Fame.

Walter Bergman was born on June 11, 1920, in Denver, CO. It was in Denver that Walter's stellar athletic career began to blossom while attending Denver's North High School. While at North High School, Walter obtained what would become a long list of athletic accomplishments. They include being named all-city in basketball, all-State in basketball, and all-city in football. Walter was also instrumental in clinching North's only State Basketball Championship by making the winning basket.

After high school, Bergman entered Colorado A&M on an athletic scholarship. He graduated 4 years later with a bachelor of science degree and 10 varsity letters: 3 in football, 3 in basketball, and 4 in baseball. In addition to varsity athletics, Walter was sophomore class president, on student council for 4 years, student body president, captain of the football team, member Sigma Phi Epsilon Fraternity, and Who's Who in American Colleges and Universities.

Recruited by the Philadelphia Eagles, Bergman chose to serve his country instead. In 1942 Bergman joined the Marines and spent the next 4 years involved in several Marine operations in the Pacific, and received the Bronze Star along the way.

Upon completing his military service and another stint at C.S.U. for his masters, Bergman moved to Durango, CO. At Durango, Bergman coached baseball and football at my alma mater, Fort Lewis College. Three years later, in 1950, he left Fort Lewis College for Mesa State College to coach football and baseball.

During Mr. Bergman's 30-year coaching career at Mesa State College, he won 3 college conference championships in football and 20 conference championships in baseball, finishing second 3 times in the JUCO World Series.

Walter Bergman's greatest contribution to Colorado is not only his athletic achievements, but his impact on the kids he coached. From Coach Bergman you learned discipline, devotion, education, and professionalism—all the qualities needed to be a successful part of our community and country.

During his life, Mr. Bergman has been an outstanding citizen whose dedication and proficiency has allowed him to earn this prestigious award.

It is work such as Walter Bergman's that inspires us all to achieve the best we can, and to promote these qualities in others. Mr. Speaker, I ask our colleagues to join me, Wal-

ter's wife Elinor, daughters Judy and Jane, and son Walter, Jr. in congratulating Walter F. Bergman on his award.

#### IN HONOR OF COMMISSIONER JOSEPH MARINI OF UNION CITY WHO RECENTLY RETIRED AS ASSISTANT SUPERINTENDENT OF SCHOOLS IN UNION CITY

#### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 18, 1995*

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Joseph Marini, commissioner of public affairs in Union City, NJ. Commissioner Marini has not only served the people of Union City through his position in the local government, but has been actively involved in its educational system. After many successful years as an educator, Commissioner Marini retired from his current position as assistant superintendent of schools in Union City last month.

Commissioner Marini began his distinguished career in education in 1955, when he was hired as a math and science teacher in Union City. He served his students well in this capacity until 1966. From 1966 until 1982, he was employed as principal of Roosevelt School. During these years, he initiated a bilingual education program even before the State mandated it. As principal of Emerson High School from 1984–85, Commissioner Marini was instrumental in helping the school achieve middle States accreditation.

When it comes to making a difference in young peoples' lives, Commissioner Marini's dedication does not end with his work within the schools. He became involved in extracurricular activities, taking the time to get to know the students on a more personal basis. From 1961–62, Commissioner Marini was the head coach of the Union Hill High School basketball team. From 1973–74, he was the director of the Union City Recreation Program. From 1975–79, he was the supervisor of the Union City After School Daycare Program.

Commissioner Marini is a member of the Union City and the New Jersey education associations. He also sits on the Union City Public Library Board. In addition, as a member of the New Jersey Urban School Superintendent Committee, he is active in lobbying for full funding for education.

Commissioner Marini grew up in Union City and raised his family there. He knows the needs of the youngsters in the city and has done an excellent job of serving those needs. I am sure the residents of Union City very much appreciate the contributions he has made to the city.

Providing quality education to our students has been Commissioner Marini's goal throughout his career. He has dedicated himself to creating a brighter future for our city's youngsters. He realizes that investing in the young people of today means investing in our future. He knows that the more help these young people receive, the brighter the future of our country will be. Commissioner Joseph Marini is truly an outstanding citizen. I commend him for his many positive accomplishments. Please join me in thanking him for his work and in